

SECOND REGULAR SESSION

SENATE BILL NO. 1014

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT AND GIBBONS.

Read 1st time February 6, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4947S.01I

AN ACT

To repeal sections 115.126, 115.163, 115.223, 115.427, 115.430, 115.431, 115.631, and 115.637, RSMo, and to enact in lieu thereof eleven new sections relating to election administration, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 115.126, 115.163, 115.223, 115.427, 115.430, 115.431, 115.631, and 115.637, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 115.002, 115.163, 115.203, 115.205, 115.219, 115.427, 115.430, 115.431, 115.456, 115.631, and 115.637, to read as follows:

115.002. Sections 115.002, 115.163, 115.203, 115.205, 115.219, 115.427, 115.430, 115.431, 115.456, 115.631, and 115.637 may be cited as the "Missouri Voter Protection Act".

115.163. 1. Each election authority shall [arrange one set of registration cards into permanent binders] **use the "Missouri Voter Registration System" established by section 115.158 to prepare a list of legally registered voters** for each precinct[, or it may authorize the creation of computerized lists for each precinct]. The [computerized lists or binder] **list** shall be arranged alphabetically or by street address as the election authority determines and shall be known as the "precinct register". [At least one set of registration cards shall be arranged in a central file in such a manner as the election authority determines, and shall be known as the "headquarters register". The election authority shall be the custodian of the registration records, and no cards or records shall be removed or handled except at its direction and under its supervision.] The precinct registers shall be kept by the election authority in a secure place, except when given to election judges for use at an election. Except

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 as provided in subsection 2 of section 115.157, all registration records shall be
15 open to inspection by the public at all reasonable times.

16 2. [In counties using computer printouts as precinct registers,] A new
17 [computer printout] **precinct register** shall be [printed] **prepared by the**
18 **election authority** prior to each election.

19 3. [In those counties using computer printouts as precinct registers,] The
20 election authority shall send to each voter a voter identification card no later than
21 ninety days prior to the date of a primary or general election for federal office,
22 unless the voter has received such a card during the preceding six months. The
23 voter identification card shall contain the voter's name, address, precinct and a
24 signature line. The card may also contain other voting information at the
25 discretion of the election authority. [The voter shall be instructed to sign the
26 card for use as identification at the polls.] The voter identification card shall be
27 sent to a voter after a new registration or a change of address. If any voter shall
28 lose his voter identification card he may request a new one from the election
29 authority. The voter identification card authorized pursuant to this section may
30 be used as a canvass of voters in lieu of the provisions set out in sections 115.179
31 to 115.193. Except as provided in subsection 2 of section 115.157, anyone, upon
32 request and payment of a reasonable fee, may obtain a printout, list and/or
33 computer tape of those newly registered voters or voters deleted from the voting
34 rolls, since the last canvass or updating of the rolls. The election authority may
35 authorize the use of the postal service contractors under the federal National
36 Change of Address program to identify those voters whose address is not correct
37 on the voter registration records. The election authority shall not be required to
38 mail a voter registration card to those voters whose addresses are
39 incorrect. Confirmation notices to such voters required by section 115.193 shall
40 be sent to the corrected address provided by the National Change of Address
41 program.

115.203. 1. No person shall pay or otherwise compensate any
2 other person for registering voters based on the number of:

3 (1) Voters registered by the other person;

4 (2) Voter registration applications collected by the other person;

5 or

6 (3) Voter registration applications submitted to election officials
7 by the other person.

8 2. No person shall receive or accept payment or any other
9 compensation from any other person for registering voters based on the

10 number of:

11 (1) Voters registered by the person receiving or accepting
12 payment or other compensation;

13 (2) Voter registration applications collected by the person
14 receiving or accepting payment or other compensation;

15 (3) Voter registration applications submitted to election officials
16 by the person receiving or accepting payment or other compensation.

17 3. No person who agrees or offers to submit a voter registration
18 application for another person shall knowingly destroy, deface, or
19 conceal such voter registration application.

20 4. Any person who accepts or receives a voter registration
21 application from another person and agrees or offers to submit such
22 application to the election authority for the registrant shall deliver the
23 application to the election authority within seven days of accepting or
24 receiving the application.

25 5. A violation of this section is a class four election offense.

115.205. 1. Any person who is paid or otherwise compensated for
2 soliciting more than ten voter registration applications, other than a
3 governmental entity or a person who is paid or compensated by a
4 governmental entity for such solicitation, shall be registered with the
5 secretary of state as a voter registration solicitor. A voting registration
6 solicitor shall register for every election cycle that begins on the day
7 after the general election and ends on the day of the general election
8 two years later. A voting registration solicitor shall be at least eighteen
9 years of age and shall be a registered voter in the state of Missouri.

10 2. Each voting registration solicitor shall provide the following
11 information in writing to the secretary of state's office:

12 (1) The name of the voting registration solicitor;

13 (2) The residential address, including street number, city, state,
14 and zip code;

15 (3) The mailing address, if different from the residential address;

16 (4) Whether the voting registration solicitor expects to be paid for
17 soliciting voter registrations;

18 (5) If the voting registration solicitor expects to be paid, the
19 identity of the payor;

20 (6) The signature of the voting registration solicitor.

21 3. The solicitor information required in subsection 2 of this

22 section shall be submitted to the secretary of state's office with the
23 following oath and affirmation:

24 "I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT
25 ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT."

26 4. Any voting registration solicitor who knowingly fails to register
27 with the secretary of state is guilty of a class three election
28 offense. Voter registration applications shall be accepted by the election
29 authority if such applications are otherwise valid, even if the voting
30 registration solicitor who procured the applications fails to register with
31 or submits false information to the secretary of state.

115.219. 1. Any person who believes a violation of any provision
2 of Title III of the Help America Vote Act of 2002 (HAVA), 42 U.S.C.
3 Sections 15481 to 15485, has occurred, is occurring, or is about to occur
4 may file a complaint with the elections division of the secretary of
5 state's office.

6 2. Any complaint filed under this section shall:

7 (1) Be in writing, signed, and sworn to before a notary public
8 commissioned by the state of Missouri;

9 (2) Be filed within thirty days of the certification of the election
10 in which the violation is alleged to have occurred and state the
11 following:

12 (a) The name and mailing address of the person or persons
13 alleged to have committed the violation of Title III of HAVA described
14 in the complaint;

15 (b) A description of the act or acts that the person filing the
16 complaint believes is a violation of Title III of HAVA; and

17 (c) The nature of the injury suffered or about to be suffered by
18 the person filing the complaint;

19 3. The elections division shall promptly provide a copy of the
20 complaint by certified mail to:

21 (1) All persons identified in the complaint as possible violators of
22 Title III of HAVA; and

23 (2) The election authority in whose jurisdiction the violation is
24 alleged to have occurred or is about to occur.

25 4. The elections division may consolidate complaints filed under
26 this section.

27 5. Upon the proper filing of a complaint under this section, the

28 secretary of state shall appoint a presiding officer who shall conduct an
29 investigation of the complaint.

30 6. At the request of the person filing the complaint or if the
31 presiding officer believes that the circumstances so dictate, the
32 presiding officer shall conduct a hearing on the complaint and prepare
33 a record on the hearing, such hearing to be conducted within ten days
34 of the request of the person filing the complaint.

35 7. Upon completion of the investigation, the presiding officer shall
36 submit the results to the elections division, which shall then issue a
37 written report. The elections division shall provide a copy of the report
38 by certified mail to:

39 (1) The person who filed the complaint;

40 (2) The person or persons alleged to have committed the violation;
41 and

42 (3) The election authority in whose jurisdiction the violation is
43 alleged to have occurred.

44 8. The report described in subsection 7 of this section shall:

45 (1) Indicate the date when the complaint was received by the
46 elections division;

47 (2) Contain findings of fact regarding the alleged violation and
48 state whether a violation of Title III of HAVA has occurred;

49 (3) State what steps, if any, the person or persons alleged to have
50 committed a violation have taken to correct or prevent any recurrence;

51 (4) Suggest any additional measures that could be taken to
52 correct the violation;

53 (5) Indicate the date a violation was corrected or is expected to
54 be corrected;

55 (6) Provide any additional information or recommendations useful
56 in resolving the complaint.

57 9. If the elections division determines that there is a violation of
58 Title III of HAVA, the elections division shall determine and provide the
59 appropriate remedy, as authorized by law to do so. If the elections
60 division determines that it is not authorized by law to provide an
61 appropriate remedy, the elections division shall, if possible, refer the
62 matter to the appropriate agency or office that has jurisdiction.

115.427. 1. Before receiving a ballot, voters shall [identify themselves]
2 establish their identity and eligibility to vote at the polling place by

3 presenting a form of personal identification [from the following list:

4 (1) Identification issued by the state of Missouri, an agency of the state,
5 or a local election authority of the state;

6 (2) Identification issued by the United States government or agency
7 thereof;

8 (3) Identification issued by an institution of higher education, including
9 a university, college, vocational and technical school, located within the state of
10 Missouri;

11 (4) A copy of a current utility bill, bank statement, government check,
12 paycheck or other government document that contains the name and address of
13 the voter;

14 (5) Driver's license or state identification card issued by another state; or

15 (6) Other identification approved by the secretary of state under rules
16 promulgated pursuant to subsection 3 of this section other identification approved
17 by federal law.

18 Personal knowledge of the voter by two supervising election judges, one from each
19 major political party, shall be acceptable voter identification upon the completion
20 of a secretary of state-approved affidavit that is signed by both supervisory
21 election judges and the voter that attests to the personal knowledge of the voter
22 by the two supervisory election judges. The secretary of state may provide by rule
23 for a sample affidavit to be used for such purpose]. **"Personal identification"**
24 **shall only mean a document that satisfies all of the following**
25 **requirements:**

26 (1) **The document shows the name of the individual to whom the**
27 **document was issued, and the name conforms to the name in the**
28 **individual's voter registration record;**

29 (2) **The document shows a photograph of the individual to whom**
30 **the document was issued;**

31 (3) **The document includes an expiration date, and the document:**

32 (a) **Is not expired; or**

33 (b) **If expired, expired not before the date of the most recent**
34 **general election;**

35 (4) **The document was issued by the United States or the state of**
36 **Missouri.**

37 **2. The election judges shall notify a voter who presents at the**
38 **polling place without a form of personal identification that satisfies the**
39 **requirements of subsection 1 of this section that the voter may return to**

40 the polling place with a proper form of personal identification and vote
41 a regular ballot after election judges have verified the voter's identity
42 and eligibility under subsection 1 of this section. Voters who return to
43 the polling place during the uniform polling hours established by section
44 115.407 with a current and valid form of personal identification shall be
45 given priority in any voting times.

46 3. An individual who appears at a polling place without
47 identification in the form described in subsection 1 of this section and
48 who is otherwise qualified to vote at that polling place may execute an
49 affidavit averring that the voter is the person listed in the precinct
50 register and that the voter does not possess a form of identification
51 specified in this section and is unable to obtain a current and valid form
52 of personal identification because of:

53 (1) A physical or mental disability or handicap of the voter, if the
54 voter is otherwise competent to vote under Missouri law; or

55 (2) A sincerely held religious belief against the forms of personal
56 identification described in subsection 1 of this section.

57 Upon executing such affidavit, the individual may cast a provisional
58 ballot. Such provisional ballot shall be entitled to be counted provided
59 the election authority verifies the identity of the individual and
60 determines that the individual was eligible to cast a ballot at the polling
61 place where the ballot was cast.

62 4. The affidavit to be used for voting under subsection 3 of this
63 section shall be substantially in the following form:

64 "State of

65 County of

66 I do solemnly swear (or affirm) that my name is; that I reside
67 at; and that I am the person listed in the precinct register
68 under this name and at this address. I further swear (or affirm) that I
69 am unable to obtain a current and valid form of personal identification
70 because of:

71 ☐ A physical or mental disability or handicap; or

72 ☐ A seriously held religious belief.

73 I understand that knowingly providing false information is a violation
74 of law and subjects me to possible criminal prosecution.

75

76 Signature of voter

77 Subscribed and affirmed before me this day of, 20..... .
78

79 Signature of election official"

80 5. A voter shall be allowed to cast a provisional ballot under
81 section 115.430 even if the election judges cannot establish the voter's
82 identity under subsection 1 of this section. The election judges shall
83 make a notation on the provisional ballot to indicate that the voter's
84 identity was not verified. The provisional ballot cast by such voter shall
85 not be counted unless:

86 (1) The voter returns to the polling place during the uniform
87 polling hours established by section 115.407 and provides a form of
88 personal identification that allows the election judges to verify the
89 voter's identity as provided in subsection 1 of this section; and

90 (2) The provisional ballot otherwise qualifies to be counted under
91 section 115.430.

92 6. The secretary of state shall provide advance notice of the
93 personal identification requirements of subsection 1 of this section in a
94 manner calculated to inform the public generally of the requirement for
95 photographic personal identification as provided in this section.

96 7. The provisions of section 302.181, RSMo, notwithstanding, the
97 director of revenue shall waive the fee required under subsection 7 of
98 section 302.181, RSMo, for any applicant who requests a non-driver's
99 license with a photograph or digital image if the applicant executes an
100 affidavit averring that the applicant does not have any other form of
101 photographic personal identification that meets the requirements of
102 subsection 1 of this section. The director shall design an affidavit to be
103 used for this purpose. However, any person residing in a facility
104 licensed under chapter 198, RSMo, who is otherwise competent to vote
105 shall be issued a non-driver's license photo identification through a
106 mobile voter processing system operated by the Missouri department of
107 revenue upon presentation of a physician's statement that the resident
108 is physically unable to otherwise obtain a non-driver's license photo
109 identification. The total cost for processing and issuing any non-driver's
110 license photo identification shall be borne by the state of Missouri
111 through appropriation to the department of revenue. The department
112 of revenue and a local election authority may enter a contract that
113 allows the local election authority to assist the department in issuing

114 **non-driver's license photo identifications.**

115 [2.] 8. The precinct register shall serve as the voter identification
116 certificate. The following form shall be printed at the top of each page of the
117 precinct register:

118 VOTER'S IDENTIFICATION CERTIFICATE

119 Warning: It is against the law for anyone to vote, or attempt to vote, without
120 having a lawful right to vote.

121 PRECINCT

122 WARD OR TOWNSHIP

123 GENERAL (SPECIAL, PRIMARY) ELECTION

124 Held, 20....

125 Date

126 I hereby certify that I am qualified to vote at this election by signing my name
127 and verifying my address by signing my initials next to my address.

128 [3.] 9. The secretary of state shall promulgate rules to effectuate the
129 provisions of this section.

130 [4.] 10. Any rule or portion of a rule, as that term is defined in section
131 536.010, RSMo, that is created under the authority delegated in this section shall
132 become effective only if it complies with and is subject to all of the provisions of
133 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
134 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
135 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
136 date or to disapprove and annul a rule are subsequently held unconstitutional,
137 then the grant of rulemaking authority and any rule proposed or adopted after
138 August 28, 2002, shall be invalid and void.

139 [5.] 11. If any voter is unable to sign his name at the appropriate place
140 on the certificate or computer printout, an election judge shall print the name and
141 address of the voter in the appropriate place on the precinct register, the voter
142 shall make his mark in lieu of signature, and the voter's mark shall be witnessed
143 by the signature of an election judge.

115.430. 1. This section shall apply to primary and general elections
2 where candidates for federal or statewide offices are nominated or elected and any
3 election where statewide issue or issues are submitted to the voters.

4 2. (1) A voter claiming to be properly registered in the jurisdiction of the
5 election authority and eligible to vote in an election, but whose eligibility **at that**
6 **precinct** cannot be immediately established upon examination of the precinct
7 register [or upon examination of the records on file with the election authority],

8 shall be entitled to vote a provisional ballot after providing a form of personal
9 identification required pursuant to section 115.427, or may vote at a central
10 polling place as established in section 115.115 where they may vote their
11 appropriate ballot **for their precinct of residence** upon verification of
12 eligibility or vote a provisional ballot if eligibility cannot be determined. The
13 provisional ballot [contained in] **provided to a voter under** this section shall
14 [contain the statewide candidates and issues, and federal candidates. The
15 congressional district on the provisional ballot shall be for] **be the ballot**
16 **provided to a resident of the voter's precinct determined by reference**
17 **to** the address contained on the affidavit provided for in this section. If the voter
18 declares that the voter is eligible to vote and the election authority determines
19 that the voter is eligible to vote at another polling place, the voter shall be
20 directed to the correct polling place or a central polling place as established by
21 the election authority pursuant to subsection 5 of section 115.115. If the voter
22 refuses to go to the correct polling place or a central polling place, the voter shall
23 be permitted to vote a provisional ballot at the incorrect polling place, but such
24 ballot shall not be counted[.] **if the voter was not eligible to vote at that**
25 **polling place;**

26 (2) The following steps shall be taken to establish a voter's
27 eligibility to vote at a polling place:

28 (a) The election judge shall examine the precinct register as
29 provided in section 115.425. If the voter is registered and eligible to vote
30 at the polling place, the voter shall receive a regular ballot;

31 (b) If the voter's eligibility cannot be immediately established by
32 examining the precinct register, the election judge shall contact the
33 election authority. If the election authority cannot immediately
34 establish that the voter is registered and eligible to vote at the polling
35 place upon examination of the Missouri voter registration system, or if
36 the election judge is unable to make contact with the election authority
37 immediately, the voter shall be notified that the voter is entitled to a
38 provisional ballot;

39 (3) The voter shall have the duty to appear and vote at the correct
40 polling place. If an election judge determines that the voter is not
41 eligible to vote at the polling place at which a voter presents himself or
42 herself, and if the voter appears to be eligible to vote at another polling
43 place, the voter shall be informed that he or she may cast a provisional
44 ballot at the current polling place or may travel to the correct polling

45 place or a central polling place, as established by the election authority
46 under subsection 5 of section 115.115, where the voter may cast a regular
47 ballot or provisional ballot if the voter's eligibility still cannot be
48 determined. Provisional ballots cast at a polling place shall be counted
49 only if the voter was eligible to vote at such polling place as provided in
50 subsection 5 of this section;

51 (4) For a voter requesting an absentee ballot, such voter shall be
52 entitled to cast a provisional ballot when the voter's eligibility cannot
53 be immediately established upon examination of the precinct registers
54 or the Missouri voter registration system;

55 (5) Prior to accepting any provisional ballot at the polling place,
56 the election judges shall determine that the information provided on the
57 provisional ballot envelope by the provisional voter is consistent with
58 the identification provided by such person under section 115.427.

59 3. (1) No person shall be entitled to receive a provisional ballot
60 until such person has completed a provisional ballot affidavit on the
61 provisional ballot envelope;

62 (2) The secretary of state shall produce appropriate sizes of
63 provisional ballot envelopes and distribute them to each election
64 authority according to their tabulating system. All provisional ballots
65 and provisional ballot envelopes shall be printed on a distinguishable
66 color of paper that is different from the color of the regular ballot. The
67 provisional ballot envelope shall be in the form required by subsection
68 4 of this section;

69 (3) Once voted, the provisional ballot shall be placed and sealed in a
70 provisional ballot envelope.

71 4. The provisional ballot in its envelope shall be deposited in the ballot
72 box. The provisional ballot envelope shall be completed by the voter for use in
73 determining eligibility. The provisional ballot envelope specified in this section
74 shall contain a voter's certificate which shall be in substantially the following
75 form:

76 STATE OF

77 COUNTY OF

78 I do solemnly swear (or affirm) that my name is; that my date
79 of birth is; that the last four digits of my Social Security Number are
80; that I am registered to vote in County or City (if a City not
81 within a County), Missouri; that I am a qualified voter of said County (or City not

82 within a County); that I am eligible to vote at this polling place; and that I have
83 not voted in this election.

84 I understand that if the above-provided information is not correct and the
85 election authority determines that I am not registered and eligible to vote, my
86 vote will not be counted. I further understand that knowingly providing false
87 information is a violation of law and subjects me to possible criminal prosecution.

88

89 (Signature of Voter)

90

91 (Current Address)

92 Subscribed and affirmed before me this day of, 20.....

93

94 (Signature of Election Official)

95 The voter may provide additional information to further assist the election
96 authority in determining eligibility, including the place and date the voter
97 registered to vote, if known.

98 [4.] **5. (1)** Prior to [certification of the election] **counting any**
99 **provisional ballot**, the election authority shall determine if the voter is
100 registered and [entitled] **eligible** to vote and if the vote was properly cast. **The**
101 **eligibility of provisional votes shall be determined according to the**
102 **requirements for a voter to cast a ballot in the election as set forth in**
103 **sections 115.133 and 115.135. A provisional voter ballot shall not be**
104 **eligible to be counted until the election authority has determined that:**

105 (a) **The voter cast such provisional ballot at a polling place**
106 **established for the voter or the central polling place established by the**
107 **election authority under subsection 5 of section 115.115;**

108 (b) **The individual who cast the provisional ballot is an individual**
109 **registered to vote in the respective election at the polling place where**
110 **the ballot was cast;**

111 (c) **The voter did not otherwise vote in the same election by**
112 **regular ballot, absentee ballot, or otherwise; and**

113 (d) **The information on the provisional ballot envelope is found to**
114 **be correct, complete, and accurate;**

115 (2) **When the ballot boxes are delivered to the election authority**
116 **from the polling places, the receiving teams shall separate the**
117 **provisional ballots from the rest of the ballots and place the sealed**
118 **provisional ballot envelopes in a separate container. Teams of election**

119 authority employees or teams of election judges with each team
120 consisting of one member of each major political party shall photocopy
121 each provisional ballot envelope, such photocopy to be used by the
122 election authority to determine provisional voter eligibility. The sealed
123 provisional ballot envelopes shall be placed by the team in a sealed
124 container and shall remain therein until tabulation;

125 (3) To determine whether a provisional ballot is valid and entitled
126 to be counted, the election authority shall examine its records and verify
127 that the provisional voter is properly registered and eligible to vote in
128 the election. If the provisional voter has provided information regarding
129 the registration agency where the provisional voter registered to vote,
130 the election authority shall make an inquiry of the registration agency
131 to determine whether the provisional voter is properly registered and
132 eligible to vote in the election;

133 (4) If the election authority determines that the provisional voter
134 is registered and eligible to vote in the election, the election authority
135 shall provide documentation verifying the voter's eligibility. Such
136 documentation shall be noted on the copy of the provisional ballot
137 envelope and shall contain substantially the following information:

138 (a) The name of the provisional voter;

139 (b) The name of the reviewer;

140 (c) The date and time; and

141 (d) A description of evidence found that supports the voter's
142 eligibility;

143 (5) The local election authority shall record on a provisional
144 ballot acceptance/rejection list the provisional ballot identification
145 number and a notation marking it as accepted;

146 (6) If the election authority determines that the provisional voter
147 is not registered or eligible to vote in the election, the election authority
148 shall provide documentation verifying the voter's ineligibility. Such
149 documentation shall be noted on the copy of the provisional ballot
150 envelope and shall contain substantially the following information:

151 (a) The name of the provisional voter;

152 (b) The name of the reviewer;

153 (c) The date and time;

154 (d) A description of why the voter is ineligible;

155 (7) The local election authority shall record on a provisional

156 **ballot acceptance/rejection list the provisional ballot identification**
157 **number and notation marking it as rejected;**

158 **(8) If rejected, a photocopy of the envelope shall be made and**
159 **used by the election authority as a mail-in voter registration. The actual**
160 **provisional ballot envelope shall be kept as ballot material, and the copy**
161 **of the envelope shall be used by the election authority for registration**
162 **record keeping.**

163 **6. All provisional ballots cast by voters whose eligibility has been**
164 **verified as provided in this section shall be counted in accordance with**
165 **the rules governing ballot tabulation. Provisional ballots shall not be**
166 **counted until all provisional ballots are determined either eligible or**
167 **ineligible.** The provisional ballot shall be counted only if the election authority
168 determines that the voter is registered and [entitled] **eligible** to
169 vote. Provisional ballots voted in the wrong polling place shall not be counted. If
170 the voter is not registered but is qualified to register for future elections, the
171 affidavit shall be considered a [mail] **mail-in** application to register to vote
172 pursuant to this chapter.

173 **7. (1) After the election authority completes its review of the**
174 **provisional voter's eligibility under subsection 5 of this section, the**
175 **election authority shall deliver the provisional ballots and copies of the**
176 **provisional ballot envelopes that include eligibility information to**
177 **bipartisan counting teams, which may be the board of verification, for**
178 **review and tabulation. The election authority shall maintain a record**
179 **of such delivery. The record shall include the number of ballots**
180 **delivered to each team and shall include a signed receipt from two**
181 **judges, one from each major political party. The election authority shall**
182 **provide each team with a ballot box and material necessary for**
183 **tabulation;**

184 **(2) If the person named on the provisional ballot affidavit is found**
185 **to have been properly qualified and registered to cast a ballot in the**
186 **election and the provisional ballot otherwise qualifies to be counted**
187 **under the provisions of this section, the envelope shall be opened, and**
188 **the ballot shall be placed in a ballot box to be counted;**

189 **(3) If the person named on the provisional ballot affidavit is found**
190 **not to have been properly qualified and registered to cast a ballot in the**
191 **election or if the election authority is unable to determine such person's**
192 **right to vote, the envelope containing the provisional ballot shall not be**

193 opened, and the person's vote shall not be counted. The members of the
194 team shall follow the procedures set forth in subsection 5 of this section
195 for rejected provisional ballots;

196 (4) The votes shall be tallied and the returns made as provided in
197 sections 115.447 to 115.525 for paper ballots. After the vote on all ballots
198 assigned to a team have been counted, the ballots, ballot envelopes, and
199 copies of ballot envelopes with the eligibility information provided by
200 the election authority shall be enclosed in sealed containers marked
201 "Voted provisional ballots and ballot envelopes from the election held
202, 20..". All rejected provisional ballots, ballot envelopes, and copies
203 of ballot envelopes with the eligibility information provided by the
204 election authority shall be enclosed in sealed containers marked
205 "Rejected provisional ballots and ballot envelopes from the election held
206, 20..". On the outside of each voted ballot and rejected ballot
207 container, each member of the team shall write their name and all such
208 containers shall be returned to the election authority. Upon receipt of
209 the returns and ballots, the election authority shall tabulate the
210 provisional votes.

211 8. Challengers and watchers, as provided by sections 115.105 and
212 115.107, may be present during all times that the bipartisan counting
213 teams are reviewing or counting the provisional ballots, the provisional
214 ballot envelopes, or copies of the provisional ballot envelopes that
215 include eligibility information provided by the election
216 authority. Challengers and watchers shall be permitted to observe the
217 determination of the eligibility of all provisional ballots. The election
218 authority shall notify the county chair of each major political party of
219 the time and location when bipartisan counting teams will be reviewing
220 or counting the provisional ballots, the provisional ballot envelopes, or
221 the copies of the provisional ballot envelopes that include the eligibility
222 information provided by the election authority.

223 9. The certificate of ballot cards shall:

224 (1) Reflect the number of provisional envelopes delivered; and
225 (2) Reflect the number of sealed provisional envelopes with voted
226 ballots deposited in the ballot box.

227 [5.] 10. In counties where the voting system does not utilize a paper
228 ballot, the election authority shall provide the appropriate provisional ballots to
229 each polling place.

230 [6.] 11. The secretary of state may promulgate rules for purposes of
231 ensuring the uniform application of this section. No rule or portion of a rule
232 promulgated pursuant to the authority of this section shall become effective
233 unless it has been promulgated pursuant to chapter 536, RSMo.

234 [7.] 12. The secretary of state shall design and provide to the election
235 authorities the envelopes and forms necessary to carry out the provisions of this
236 section.

237 [8.] 13. Pursuant to the Help America Vote Act of 2002, the secretary of
238 state shall ensure a free access system is established, such as a toll-free number
239 or an Internet web site, that any individual who casts a provisional ballot may
240 access to discover whether the vote of that individual was counted, and, if the
241 vote was not counted, the reason that the vote was not counted. At the time an
242 individual casts a provisional ballot, the election authority shall give the voter
243 written information that states that any individual who casts a provisional ballot
244 will be able to ascertain under such free access system whether the vote was
245 counted, and if the vote was not counted, the reason that the vote was not
246 counted.

247 [9.] 14. In accordance with the Help America Vote Act of 2002, any
248 individual who votes in an election as a result of a court order or any other order
249 extending the time established for closing the polls in section 115.407 may vote
250 only by using a provisional ballot, and such provisional ballot shall be separated
251 and held apart from other provisional ballots cast by those not affected by the
252 order. Such ballots shall not be counted until such time as the ballots are
253 determined to be valid. **No state court shall have jurisdiction to extend the**
254 **polling hours established by law, including section 115.407.**

 115.431. [1. In counties using binders as the precinct register, upon
2 satisfactory identification of the voter, two judges of different political parties
3 shall initial the voter's identification certificate. All identification certificates
4 shall be numbered consecutively by an election judge in the order received,
5 starting with the number "1". The signed identification certificates shall
6 constitute the poll list and shall be securely fastened together in the order
7 received.

8 2. In counties using computer printouts for precinct registers,] Upon
9 satisfactory identification of the voter, two judges of different political parties
10 shall place their initials on the line where the voter signed the [printout]
11 **precinct register**. All voters' names on the [printout] **precinct register** shall
12 be numbered consecutively in the order in which they have signed, starting with

13 the number "1". The computer [printout] **precinct register** shall then constitute
14 the poll list.

115.456. 1. The election authority shall be responsible for
2 ensuring that the standards provided for in this subsection are followed
3 when counting ballots cast using punch card voting systems.

4 (1) Prior to tabulating ballots, all ballot cards shall be inspected
5 by the election authority for hanging chad and damaged
6 ballots. Inspection of ballot cards shall be conducted using the following
7 guidelines:

8 (a) The election authority shall appoint a bipartisan team to
9 inspect all ballots where a question exists about the condition of a ballot
10 or existence of a hanging chad;

11 (b) All ballot card inspections conducted under this section shall
12 be conducted by examining the ballot card from the back of the card;

13 (c) If a ballot is determined to be damaged, the bipartisan team
14 shall spoil the original ballot and duplicate the voter's intent on the new
15 ballot, provided that there is an undisputed method of matching the
16 duplicate card with its original after it has been placed with the
17 remainder of the ballot cards from the precinct; and

18 (d) If a chad is determined to be hanging by two or less corners,
19 it shall be removed prior to being tabulated;

20 (2) In jurisdictions using punch card systems, a valid vote for a
21 write-in candidate shall include the following:

22 (a) A distinguishing mark in the square immediately preceding
23 the name of the candidate;

24 (b) The name of the candidate. If the name of the candidate as
25 written by the voter is substantially as declared by the candidate it shall
26 be counted, or in those circumstances where the names of candidates are
27 similar, the names of candidates as shown on voter registration records
28 shall be counted; and

29 (c) The name of the office for which the candidate is to be elected;

30 (3) Whenever a hand recount of votes is ordered of punch card
31 ballots, the provisions of this subsection shall be used to determine voter
32 intent.

33 2. The election authority shall be responsible for ensuring that
34 the standards provided for in this subsection are followed when
35 counting ballots cast using optical scan voting systems.

36 (1) Prior to tabulating ballots, all machines shall be programmed
37 to reject blank ballots where no votes are recorded or where an overvote
38 is registered in any race;

39 (2) In jurisdictions using precinct-based tabulators, the voter who
40 cast the ballot shall review the ballot if rejected, if the voter wishes to
41 make any changes to the ballot, or if the voter would like to spoil the
42 ballot and receive another ballot;

43 (3) In jurisdictions using centrally based tabulators, if a ballot is
44 so rejected it shall be reviewed by a bipartisan team using the following
45 criteria:

46 (a) If a ballot is determined to be damaged, the bipartisan team
47 shall spoil the original ballot and duplicate the voter's intent on the new
48 ballot, provided that there is an undisputed method of matching the
49 duplicate card with its original after it has been placed with the
50 remainder of the ballot cards from such precinct; and

51 (b) Voter intent shall be determined using the following criteria:

52 a. There is a distinguishing mark in the printed oval adjacent to
53 the name of the candidate or issue preference;

54 b. There is a distinguishing mark adjacent to the name of the
55 candidate or issue preference; or

56 c. The name of the candidate or issue preference is circled;

57 (4) In jurisdictions using optical scan systems, a valid vote for a
58 write-in candidate shall include the following:

59 (a) A distinguishing mark in the designated location preceding
60 the name of the candidate;

61 (b) The name of the candidate. If the name of the candidate as
62 written by the voter is substantially as declared by the candidate it shall
63 be counted, or in those circumstances where the names of candidates are
64 similar, the names of candidates as shown on voter registration records
65 shall be counted; and

66 (c) The name of the office for which the candidate is to be elected;

67 (5) Whenever a hand recount of votes of optical scan ballots is
68 ordered, the provisions of this subsection shall be used to determine
69 voter intent.

70 3. The election authority shall be responsible for ensuring that
71 the standards provided for in this subsection are followed when
72 counting ballots cast using paper ballots.

73 **(1) Voter intent shall be determined using the following criteria:**

74 **(a) There is a distinguishing mark in the square adjacent to the**
75 **name of the candidate or issue preference;**

76 **(b) There is a distinguishing mark adjacent to the name of the**
77 **candidate or issue preference; or**

78 **(c) The name of the candidate or issue preference is circled;**

79 **(2) In jurisdictions using paper ballots, a valid vote for a write-in**
80 **candidate shall include the following:**

81 **(a) A distinguishing mark in the square immediately preceding**
82 **the name of the candidate;**

83 **(b) The name of the candidate. If the name of the candidate as**
84 **written by the voter is substantially as declared by the candidate it shall**
85 **be counted, or in those circumstances where the names of candidates are**
86 **similar, the names of candidates as shown on voter registration records**
87 **shall be counted; and**

88 **(c) The name of the office for which the candidate is to be elected;**

89 **(3) Whenever a hand recount of votes of paper ballots is ordered,**
90 **the provisions of this subsection shall be used to determine voter intent.**

91 **4. When write-in stickers are used, the sticker shall contain the**
92 **name of a candidate, the office sought, and a distinguishing mark in the**
93 **square immediately preceding the name of the candidate and shall be**
94 **approximately one inch by three inches in size with black print on a**
95 **white background. The sticker shall be placed by the voter on the write-**
96 **in line designating the office sought or the sticker shall be placed by the**
97 **voter on the write-in line on the secrecy envelope.**

 115.631. The following offenses, and any others specifically so described
2 by law, shall be class one election offenses and are deemed felonies connected
3 with the exercise of the right of suffrage. Conviction for any of these offenses
4 shall be punished by imprisonment of not more than five years or by fine of not
5 less than two thousand five hundred dollars but not more than ten thousand
6 dollars or by both such imprisonment and fine:

7 **(1) Willfully and falsely making any certificate, affidavit, or statement**
8 **required to be made pursuant to any provision of sections 115.001 to 115.641 and**
9 **sections 51.450 and 51.460, RSMo, including but not limited to statements**
10 **specifically required to be made "under penalty of perjury"; or in any other**
11 **manner knowingly furnishing false information to an election authority or**
12 **election official engaged in any lawful duty or action in such a way as to hinder**

13 or mislead the authority or official in the performance of official duties. If an
14 individual willfully and falsely makes any certificate, affidavit, or statement
15 required to be made under section 115.155, including but not limited to
16 statements specifically required to be made "under penalty of perjury", such
17 individual shall be guilty of a class C felony;

18 (2) Voting more than once or voting at any election knowing that the
19 person is not entitled to vote or that the person has already voted on the same
20 day at another location inside or outside the state of Missouri;

21 (3) Procuring any person to vote knowing the person is not lawfully
22 entitled to vote or knowingly procuring an illegal vote to be cast at any election;

23 (4) Applying for a ballot in the name of any other person, whether the
24 name be that of a person living or dead or of a fictitious person, or applying for
25 a ballot in his own or any other name after having once voted at the election
26 inside or outside the state of Missouri;

27 (5) Aiding, abetting or advising another person to vote knowing the person
28 is not legally entitled to vote or knowingly aiding, abetting or advising another
29 person to cast an illegal vote;

30 (6) An election judge knowingly causing or permitting any ballot to be in
31 the ballot box at the opening of the polls and before the voting commences;

32 (7) Knowingly furnishing any voter with a false or fraudulent or bogus
33 ballot, or knowingly practicing any fraud upon a voter to induce him to cast a vote
34 which will be rejected, or otherwise defrauding him of his vote;

35 (8) An election judge knowingly placing or attempting to place or
36 permitting any ballot, or paper having the semblance of a ballot, to be placed in
37 a ballot box at any election unless the ballot is offered by a qualified voter as
38 provided by law;

39 (9) Knowingly placing or attempting to place or causing to be placed any
40 false or fraudulent or bogus ballot in a ballot box at any election;

41 (10) Knowingly removing any legal ballot from a ballot box for the purpose
42 of changing the true and lawful count of any election or in any other manner
43 knowingly changing the true and lawful count of any election;

44 (11) Knowingly altering, defacing, damaging, destroying or concealing any
45 ballot after it has been voted for the purpose of changing the lawful count of any
46 election;

47 (12) Knowingly altering, defacing, damaging, destroying or concealing any
48 poll list, report, affidavit, return or certificate for the purpose of changing the
49 lawful count of any election;

50 (13) On the part of any person authorized to receive, tally or count a poll
51 list, tally sheet or election return, receiving, tallying or counting a poll list, tally
52 sheet or election return the person knows is fraudulent, forged or counterfeit, or
53 knowingly making an incorrect account of any election;

54 (14) On the part of any person whose duty it is to grant certificates of
55 election, or in any manner declare the result of an election, granting a certificate
56 to a person the person knows is not entitled to receive the certificate, or declaring
57 any election result the person knows is based upon fraudulent, fictitious or illegal
58 votes or returns;

59 (15) Willfully destroying or damaging any official ballots, whether marked
60 or unmarked, after the ballots have been prepared for use at an election and
61 during the time they are required by law to be preserved in the custody of the
62 election judges or the election authority;

63 (16) Willfully tampering with, disarranging, altering the information on,
64 defacing, impairing or destroying any voting machine or marking device after the
65 machine or marking device has been prepared for use at an election and during
66 the time it is required by law to remain locked and sealed with intent to impair
67 the functioning of the machine or marking device at an election, mislead any
68 voter at the election, or to destroy or change the count or record of votes on such
69 machine;

70 (17) Registering to vote knowing the person is not legally entitled to
71 register or registering in the name of another person, whether the name be that
72 of a person living or dead or of a fictitious person;

73 (18) Procuring any other person to register knowing the person is not
74 legally entitled to register, or aiding, abetting or advising another person to
75 register knowing the person is not legally entitled to register;

76 (19) Knowingly preparing, altering or substituting any computer program
77 or other counting equipment to give an untrue or unlawful result of an election;

78 (20) On the part of any person assisting a blind or disabled person to vote,
79 knowingly failing to cast such person's vote as such person directs;

80 (21) On the part of any registration or election official, permitting any
81 person to register to vote or to vote when such official knows the person is not
82 legally entitled to register or not legally entitled to vote;

83 (22) On the part of a notary public acting in his official capacity,
84 knowingly violating any of the provisions of sections 115.001 to 115.627 or any
85 provision of law pertaining to elections;

86 (23) Violation of any of the provisions of sections 115.275 to 115.303, or

87 of any provision of law pertaining to absentee voting;

88 (24) Assisting a person to vote knowing such person is not legally entitled
89 to such assistance, or while assisting a person to vote who is legally entitled to
90 such assistance, in any manner coercing, requesting or suggesting that the voter
91 vote for or against, or refrain from voting on any question, ticket or candidate;

92 (25) **Engaging in any act of violence, destruction of property**
93 **having a value of five hundred dollars or more, or threatened act of**
94 **violence with the intent of denying a person's lawful right to vote or to**
95 **participate in the election process; and**

96 (26) **Knowingly provide false information about election**
97 **procedures for the purpose of preventing any person from going to the**
98 **polls.**

115.637. The following offenses, and any others specifically so described
2 by law, shall be class four election offenses and are deemed misdemeanors not
3 connected with the exercise of the right of suffrage. Conviction for any of these
4 offenses shall be punished by imprisonment of not more than one year or by a fine
5 of not more than two thousand five hundred dollars or by both such imprisonment
6 and fine:

7 (1) Stealing or willfully concealing, defacing, mutilating, or destroying any
8 sample ballots that may be furnished by an organization or individual at or near
9 any voting place on election day, except that this subdivision shall not be
10 construed so as to interfere with the right of an individual voter to erase or cause
11 to be erased on a sample ballot the name of any candidate and substituting the
12 name of the person for whom he intends to vote; or to dispose of the received
13 sample ballot;

14 (2) Printing, circulating, or causing to be printed or circulated, any false
15 and fraudulent sample ballots which appear on their face to be designed as a
16 fraud upon voters;

17 (3) Purposefully giving a printed or written sample ballot to any qualified
18 voter which is intended to mislead the voter;

19 (4) On the part of any candidate for election to any office of honor, trust,
20 or profit, offering or promising to discharge the duties of such office for a less sum
21 than the salary, fees, or emoluments as fixed by law or promising to pay back or
22 donate to any public or private interest any portion of such salary, fees, or
23 emolument as an inducement to voters;

24 (5) On the part of any canvasser appointed to canvass any registration
25 list, willfully failing to appear, refusing to continue, or abandoning such canvass

26 or willfully neglecting to perform his duties in making such canvass or willfully
27 neglecting any duties lawfully assigned to him;

28 (6) On the part of any employer, making, enforcing, or attempting to
29 enforce any order, rule, or regulation or adopting any other device or method to
30 prevent an employee from engaging in political activities, accepting candidacy for
31 nomination to, election to, or the holding of, political office, holding a position as
32 a member of a political committee, soliciting or receiving funds for political
33 purpose, acting as chairman or participating in a political convention, assuming
34 the conduct of any political campaign, signing, or subscribing his name to any
35 initiative, referendum, or recall petition, or any other petition circulated pursuant
36 to law;

37 (7) On the part of any person authorized or employed to print official
38 ballots, or any person employed in printing ballots, giving, delivering, or
39 knowingly permitting to be taken any ballot to or by any person other than the
40 official under whose direction the ballots are being printed, any ballot in any form
41 other than that prescribed by law, or with unauthorized names, with names
42 misspelled, or with the names of candidates arranged in any way other than that
43 authorized by law;

44 (8) On the part of any election authority or official charged by law with
45 the duty of distributing the printed ballots, or any person acting on his behalf,
46 knowingly distributing or causing to be distributed any ballot in any manner
47 other than that prescribed by law;

48 (9) Any person having in his possession any official ballot, except in the
49 performance of his duty as an election authority or official, or in the act of
50 exercising his individual voting privilege;

51 (10) Willfully mutilating, defacing, or altering any ballot before it is
52 delivered to a voter;

53 (11) On the part of any election judge, willfully absenting himself from the
54 polls on election day without good cause or willfully detaining any election
55 material or equipment and not causing it to be produced at the voting place at the
56 opening of the polls or within fifteen minutes thereafter;

57 (12) On the part of any election authority or official, willfully neglecting,
58 refusing, or omitting to perform any duty required of him by law with respect to
59 holding and conducting an election, receiving and counting out the ballots, or
60 making proper returns;

61 (13) On the part of any election judge, or party watcher or challenger,
62 furnishing any information tending in any way to show the state of the count to

63 any other person prior to the closing of the polls;

64 (14) On the part of any voter, except as otherwise provided by law,
65 allowing his ballot to be seen by any person with the intent of letting it be known
66 how he is about to vote or has voted, or knowingly making a false statement as
67 to his inability to mark his ballot;

68 (15) On the part of any election judge, disclosing to any person the name
69 of any candidate for whom a voter has voted;

70 (16) Interfering, or attempting to interfere, with any voter inside a polling
71 place;

72 (17) On the part of any person at any registration site, polling place,
73 counting location or verification location, causing any breach of the peace or
74 engaging in disorderly conduct, violence, or threats of violence whereby such
75 registration, election, count or verification is impeded or interfered with;

76 (18) Exit polling, surveying, sampling, electioneering, distributing election
77 literature, posting signs or placing vehicles bearing signs with respect to any
78 candidate or question to be voted on at an election on election day inside the
79 building in which a polling place is located or within [twenty-five] **fifty** feet of the
80 building's outer door closest to the polling place, or, on the part of any person,
81 refusing to remove or permit removal from property owned or controlled by him,
82 any such election sign or literature located within such distance on such day after
83 request for removal by any person;

84 (19) Stealing or willfully defacing, mutilating, or destroying any campaign
85 yard sign on private property, except that this subdivision shall not be construed
86 to interfere with the right of any private property owner to take any action with
87 regard to campaign yard signs on the owner's property and this subdivision shall
88 not be construed to interfere with the right of any candidate, or the candidate's
89 designee, to remove the candidate's campaign yard sign from the owner's private
90 property after the election day.

[115.126. 1. Notwithstanding any provision of this chapter
2 to the contrary, election authorities shall establish a plan to
3 implement an advance voting period when eligible registered voters
4 may vote before any general election in presidential election years
5 at the office of the election authority and up to four other polling
6 places designated by and under the control of the election
7 authority. Such plan shall provide that the permissible advance
8 voting period shall begin fourteen days prior to such election and
9 end at 5:00 p.m. on the Wednesday before the day of such election.

10 2. Election authorities shall, pursuant to subsection 1 of
11 this section, establish in their plans the hours and locations for
12 advance voting. The election authority shall have all advance
13 voting locations open on all business days during the advance
14 voting period, and may have all advance voting locations open on
15 Saturdays, Sundays and holidays during the advance voting period.

16 3. Except as provided in this section, advance voting
17 procedures shall be conducted pursuant to sections 115.407 to
18 115.445. The secretary of state shall design the necessary
19 application for use in an advance voting program pursuant to this
20 section. All election authorities in this state shall submit to the
21 secretary of state a plan to implement the advance voting period by
22 December 31, 2002. The secretary of state shall assist election
23 authorities in developing a plan for the implementation of an
24 advance voting program.

25 4. The plans established pursuant to this section shall also
26 require that before the precinct registers are delivered to the
27 polling places for an election, the election authority shall record in
28 the precinct registers the names of all voters who have submitted
29 an advance voting ballot. The election judge shall not allow any
30 person who has voted an advance voting ballot in the election to
31 vote at the polls on election day. If it is determined that any voter
32 submitted an advance voting ballot and voted at the polls on
33 election day, such person, having voted more than once, is guilty of
34 a class one election offense pursuant to subdivision (2) of section
35 115.631.

36 5. The secretary of state may promulgate rules to effectuate
37 the provisions of this section.

38 6. Any rule or portion of a rule, as that term is defined in
39 section 536.010, RSMo, that is created under the authority
40 delegated in this section shall become effective only if it complies
41 with and is subject to all of the provisions of chapter 536, RSMo,
42 and, if applicable, section 536.028, RSMo. This section and chapter
43 536, RSMo, are nonseverable and if any of the powers vested with
44 the general assembly pursuant to chapter 536, RSMo, to review, to
45 delay the effective date or to disapprove and annul a rule are
46 subsequently held unconstitutional, then the grant of rulemaking

47 authority and any rule proposed or adopted after August 28, 2002,
48 shall be invalid and void.]

[115.223. Whenever a voter's name has been removed from
2 the registration records by an election authority, the voter may
3 appeal the removal to the circuit court. Unless prohibited by court
4 rule, the petition may be filed in an associate circuit court
5 division. No formal pleading shall be required, and it shall be
6 sufficient for the voter to present to the court an application
7 verified by affidavit setting forth that his name has been removed
8 from the registration records, the date of such removal, and any
9 other information showing his qualification to vote. The
10 application shall first be presented to the election authority, which
11 shall either restore the voter's name to the registration records or
12 furnish a statement showing the reason the voter's name was
13 removed from the records. The court shall hear and dispose of such
14 application forthwith. Evidence may be introduced for and against
15 the application. If the court sustains the application, the court
16 shall notify the election authority of its action, and the election
17 authority shall restore the applicant's name to the registration
18 records and note that it was restored by order of the court. No
19 person whose name is restored to the registration records by order
20 of the court shall be protected by such order if he is challenged or
21 prosecuted for false registration or false voting. If a voter's name
22 is restored to the registration records by the election authority or
23 by order of the court on election day, the voter shall be permitted
24 to vote in the office of the election authority.]

Section B. Because immediate action is necessary to effect necessary
2 changes in time for the August, 2006, primary election, section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and section A of this act shall be in full force and
6 effect upon its passage and approval.

✓